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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

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|------------------------|---|-------------------------|
| In the Matter of: |) | NMLS No.: 962447 |
| |) | |
| THE COMMISSIONER |) | ORDER DENYING MORTGAGE |
| OF BUSINESS OVERSIGHT, |) | LOAN ORIGINATOR LICENSE |
| |) | APPLICATION |
| Complainant, |) | |
| v. |) | |
| |) | |
| TIRSO ARTURO GAXIOLA, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

The Complainant, the Commissioner of Business Oversight ("Commissioner"), finds that:

1. On January 28, 2013, Tirso Arturo Gaxiola (Respondent) filed an application for a mortgage loan originator license with the Commissioner pursuant to section 50140 of the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.). Respondent submitted his non-sponsored application to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).

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2. On the Form MU4, Respondent answered “Yes” to the following three questions:

(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

...

(5) revoked your registration or license.

3. In the “Event Explanation Detail” section of the application, Respondent disclosed that he had made a false statement in a real estate short sale transaction and, as a result, lost his real estate salesperson license in 2000. However, Respondent failed to provide any supporting documentation.

4. On March 7, 2013, a license item was created in the NMLS, instructing Respondent to upload documentation supporting his answers to the Form MU4 disclosure questions.

5. On March 12, 2013, Respondent filed an amended Form MU4 with supporting documentation consisting of a one-page letter dated October 15, 1997, which was purportedly issued from a private company to a client represented by Respondent. The Commissioner deemed this documentation to be unresponsive, incomplete, and insufficient.

6. The Commissioner’s independent investigation of Respondent’s application disclosed that Respondent’s real estate salesperson license was revoked by the BRE on April 18, 2000 for the following violations of the Business and Professions Code: (1) conducting real estate activities under the employ and/or in expectation from a person other than a broker under whom the Respondent was at the time licensed; (2) making a substantial misrepresentation of truth; and, (3) demonstrating negligence or incompetence in performing acts for which a real estate license is required.

7. The Commissioner’s investigation further disclosed that Respondent unsuccessfully petitioned the BRE for reinstatement of his license on July 25, 2001, August 9, 2010, and April 26, 2011. On each occasion, the BRE denied the petition on grounds that Respondent failed to demonstrate that he had undergone sufficient rehabilitation.

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8. Financial Code section 50141, subdivision (a)(3), provides in relevant part:

(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

.....

(3) The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division. [Emphasis added.]

9. Respondent's conduct leading to the revocation of his real estate salesperson license shows his failure to demonstrate such character and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan originator.

10. Additionally, on three separate occasions, with the most recent being in 2011, Respondent failed to demonstrate to the BRE's satisfaction that he had undergone sufficient rehabilitation to warrant the reinstatement of his real estate salesperson license.

11. Moreover, Respondent was not forthcoming in providing the Commissioner with documentation supporting the affirmative answers he provided to the Form MU4 disclosure questions. Instead, the Commissioner had to conduct an independent investigation of BRE records to verify the violations upon which the revocation of Respondent's real estate salesperson license were based as well as the subsequent multiple unsuccessful attempts by Respondent to petition for license reinstatement. This lack of prompt and accurate disclosure by Respondent demonstrates a lack of honesty that is inconsistent with the CRMLA which mandates that truthful statements be made to customers of residential mortgage loans.

12. The Commissioner determined, by reason of the foregoing, that Respondent does not have the character or general fitness to warrant a determination that he will act honestly under the CRMLA.

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1 13. Accordingly, on April 28, 2014, the Commissioner issued a Statement of Issues in
2 Support of Non-Issuance of Mortgage Loan Originator License, Notice of Intention to Deny
3 Mortgage Loan Originator License Application, and accompanying documents based on the above
4 findings.

5 14. On or about May 1, 2015, Respondent was served by certified mail with the above-
6 referenced documents at the address filed by Respondent on his application with the Commissioner.
7 The Commissioner has received no request for a hearing, and the time to request a hearing has
8 expired.

9 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the application
10 for a mortgage loan originator license of Tirso Arturo Gaxiola is denied. This order is effective as of
11 the date hereof.

12 DATED: May 28, 2015
13 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

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15 By _____
16 MARY ANN SMITH
17 Deputy Commissioner
18 Enforcement Division
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